

PROCEEDINGS OF THE COMMON COUNCIL
IN REGULAR SESSION,
TUESDAY, FEBRUARY 27, 1968.

CITY OF FORT WAYNE, INDIANA
Journal of the Proceedings
of the Common Council

The Common Council of the City of Fort Wayne met in the Council Chamber Tuesday
evening, February 27, A.D., 1968 in Regular Session. President
Jack K. Dunifon in the chair, and Fuad G. Bonahoom Clerk, at the desk,
present the following members _____ viz:

Adams / Dunifon / Fay _____ Geake / Nuckols / Robinson /
Rousseau / Steigerwald / Tipton /.

Absent / viz: Councilman 8

The minutes of the last regular February 13, 1968 session having been delivered
to the Council, were, on Motion, approved as published.



HAROLD S. ZEIS
Mayor

City of Fort Wayne

COMMUNICATION FROM THE MAYOR

To the Common Council
Fort Wayne, Indiana

Gentlemen and Mrs. Fay:

Today, February 14, 1968, I have approved the following ordinances passed by the Common Council at its regular meeting on February 13, 1968:

(Bill No. Z-67-09-36)(Amended)

ZONING MAP ORDINANCE NO. Z-05-68

AN ORDINANCE amending the City of Fort Wayne Zoning Map No. E-2 by placing a Neighborhood Shopping Center Symbol thereon.

(Bill No. Z-68-01-06)

ZONING MAP ORDINANCE NO. Z-06-68

AN ORDINANCE amending the City of Fort Wayne Zoning Maps Nos. B-1, C-1 and C-2.

(Bill No. A-68-01-11)

APPROPRIATION ORDINANCE NO. A-01-68

AN ORDINANCE appropriating salary for office secretary for the Communications Department for the fiscal year 1968.

(Bill No. S-68-01-12)

SPECIAL ORDINANCE NO. S-09-68

AN ORDINANCE amending Special Ordinance No. S-501-67 to fix the salary of office secretary for the Communications Department.

(Bill No. S-68-01-13)

SPECIAL ORDINANCE NO. S-10-68

AN ORDINANCE approving payment to GENERAL TELEPHONE CO for material and labor to repair conduit.

(Bill No. S-68-01-14)

SPECIAL ORDINANCE NO. S-11-68

AN ORDINANCE approving a contract with C. A. GRIEGER, INC. for one 1968 Chevrolet Van for the Electrical Engineering Department.



MADE A MATTER OF RECORD
DATE 2-27-68 RUAD G. POLANSKY, CITY CLERK

(Bill No. S-68-01-15)
SPECIAL ORDINANCE NO. S-12-68

AN ORDINANCE approving a certain bid document between the City of Fort Wayne and C. A. GRIEGER, INC. for one 1968 Sedan, Police Package.

(Bill No. S-68-01-16)
SPECIAL ORDINANCE NO. S-13-68

AN ORDINANCE approving a certain bid document between the City of Fort Wayne and INTERNATIONAL HARVESTER CO for one 1968 I.H.C. Truck Chassis and Van Type Body.

(Bill No. S-68-01-17)
SPECIAL ORDINANCE NO. S-14-68

AN ORDINANCE approving a contract with SCHEELE CONSTRUCTION, INC. for Sewer Resolution No. 190-1967, Lawton Park Sanitary Sewer.

(Bill No. S-68-01-18)
SPECIAL ORDINANCE NO. S-15-68

AN ORDINANCE approving contracts in connection with new Fire Station in Industrial Park.

(Bill No. S-68-02-11)
SPECIAL ORDINANCE NO. S-16-68

AN ORDINANCE approving Board of Public Works Resolution to accept salvage bid on City Utilities Unit No. 140.

(Bill No. R-68-02-22)
RESOLUTION NO. R-03-68

RESOLUTION authorizing payments of claims for repairs to City-owned vehicles.

(Bill No. R-68-02-23)
RESOLUTION NO. R-04-68

RESOLUTION authorizing payments of claims for repairs to City-owned vehicles.

(Bill No. R-68-02-24)
RESOLUTION NO. R-05-68

RESOLUTION authorizing payment for repairs to City-owned vehicles.

(Bill No. R-68-02-25)
RESOLUTION NO. R-06-68

RESOLUTION in connection with the proposed East Central Code Enforcement Project.

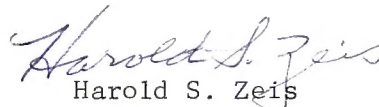
(Bill No. G-68-01-21)
GENERAL ORDINANCE NO. G-04-68

AN ORDINANCE amending General Ordinance No. G-97 by authorizing the vacation of public streets and alleys in the Rolling Mill Urban Renewal Project.

(Bill No. G-68-02-26)
GENERAL ORDINANCE NO. G-05-68

AN ORDINANCE amending General Ordinance No. G-107-67 as to Board of Directors of Public Transportation Corporation.

Respectfully submitted,


Harold S. Zeis
Mayor



BOARD OF PUBLIC SAFETY

City of Fort Wayne

COMMUNICATION FROM BOARD OF PUBLIC SAFETY

February 15, 1968

President of the Common Council
City of Fort Wayne, Indiana

Dear Sir:

Attached herewith is an authenticated copy of the Board of Public Safety Regulatory Resolution number 10-68/E.

For the purpose of enforcement, please make this communication and the attached Regulatory Resolution a matter of record and incorporate same into the minutes of the next Common Council Meeting.

Respectfully submitted,

Melvin H. Heckman, Chairman
BOARD OF PUBLIC SAFETY

BY: *George W. Bormuth*
George W. Bormuth, Exec. Sec'y.

mb



MADE A MATTER OF RECORD
DATE 2-27-68 RUAD G. SCHMIDT, CITY CLERK

RETURN CERTIFICATE

(Regulatory Resolution No. 10-68 / B)

I hereby certify that I did this 15th day of February, 196⁸ deliver to each, the City Traffic Engineer, the Chief of Police, the City Attorney, The City Clerk and the President of the Common Council of the City of Fort Wayne, Indiana, respectively, a copy of the within Regulatory Resolution No. 10-68 / B of the Board of Public Safety of the City of Fort Wayne, duly certified by me as Secretary of said Board, in accordance with the provisions of Section 20 (a) of Chapter 31, Municipal Code of the City of Fort Wayne, Indiana 1946, as amended by General Ordinance G-55, adopted FEB. 14, 1961.



EXECUTIVE SECRETARY

REGULATORY RESOLUTION NO. 10-68/E

(Adopted February 14, 1968)

WHEREAS, Section 20(a) (3), Chapter 31, Municipal Code of the City of Fort Wayne, Indiana, as amended by General Ordinance No. G-55 adopted FEB. 14 1961 authorizes the Board of Public Safety to make experimental regulations to cover special conditions; and,

WHEREAS, a special condition has arisen justifying the Experimental Regulation hereinafter ordered, with regard to renewing and extending Regulatory Resolutions 64-67/E and 65-67/E

_____ ; and,

WHEREAS, the City Traffic : Engineer has, by written memorandum dated February 13, 1968, submitted to this Board his advice with regard to the regulation hereinafter adopted, which written memorandum is on file in the office of this Board;

NOW THEREFORE, BE IT RESOLVED BY THE BOARD OF PUBLIC SAFETY OF THE CITY OF FORT WAYNE, INDIANA:

That, pursuant to the authority granted to this Board by Section 20 (a) (3) of Chapter 31 of the Municipal Code of the City of Fort Wayne, Indiana 1946, as amended by General Ordinance No G-55. adopted FEB. 14, 1961. to make experimental regulations to cover special condi-

tions, it is hereby ordered, effective February 18,

1968, and for a period of sixty (60) days thereafter, and when signs are erected pursuant hereto giving notice thereof, that THE FOLLOWING BE ESTABLISHED:

A. Renew & Extend Regulatory Resolution 64-67/E
Stop Intersection:

1. Cass Street - STOP - at Fifth St.
2. Wilt Street - STOP - at Union St.
3. Wilt Street - STOP - at College St.

B. Renew & Extend Regulatory Resolution 65-67/E
60 Minute Parking 8:00 A.M. - 6:00 P.M.:

1. South Calhoun St. - west side - from Darrow St. to Oakdale Drive.

90 Minute Parking 8:00 A.M. - 6:00 P.M.:

~~DELETE~~

1. South Calhoun St. - west side - from Darrow St. to Oakdale Dr.

REPORT OF MAYOR, FIRE CHIEF AND CITY CLERK ON
ELECTION OF TRUSTEE FOR FIREMEN'S PENSION FUND

To The Honorable Common Council:

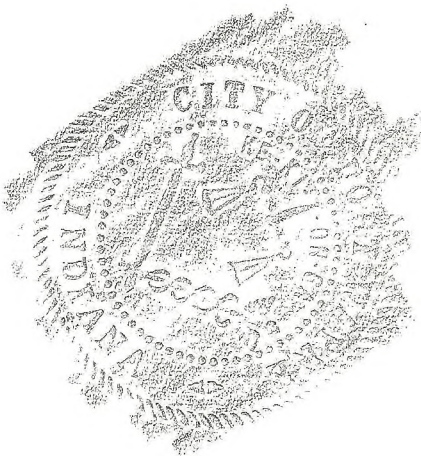
The undersigned met and canvassed the ballots of an election held on the 12th day of February, 1968 by members of the Fort Wayne Fire Department for the election of one Trustee for the Firemen's Pension Fund to serve for a period of four (4) years.

Arthur D. Rufner received 49 votes, the highest number of votes, from a total of 161 ballots cast for the six candidates for office.

Harold S. Zeis
Mayor

Fuad G. Bonahoom
City Clerk

Edward L. Lorraine
Fire Chief



MADE A MATTER OF RECORD
DATE 2-27-68 FUAD G. BONAHOOM, CITY CLERK

Council Copy

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF INDIANA
EVANSVILLE DIVISION

JUSTICE F. WYNN

Plaintiff

-vs-

NO. EV 59-C-27

CITY OF EVANSVILLE, INDIANA,
THE BOARD OF ZONING APPEALS
FOR THE CITY OF EVANSVILLE,
INDIANA

JOHN J. GEMHAUSEN, JOHN U.
AULL, RICHARD L. EYERS,
ALEX HAMBURG and WILLIAM
R. CLAYBURN, as members of
the Board of Zoning Appeals
of the City of Evansville,
Indiana,

J. WILLIAM DAVIDSON, Mayor of
the City of Evansville,
Indiana,

JAMES ANGERSFIER, City Attorney
for the City of Evansville,
Indiana,

Defendants

FINDINGS OF FACT

The Court finds as follows:

1. That the plaintiff is the owner of the real estate described in rhetorical paragraph 4 of plaintiff's complaint.

2. That the City of Evansville is a municipal corporation of the State of Indiana.

3. That the City of Evansville has adopted a zoning ordinance and master plan for said city which is "Exhibit A" of plaintiff's complaint.

4. The Court finds that the intersection of U.S. Highway 41 and Indiana State Highway 66, commonly known as Lincoln and Kentucky Avenues in the City of Evansville, Indiana is a heavily travelled intersection, under a constant flow of vehicular traffic, including heavy trucks, diesel equipment and automobiles. That the total traffic count of north-south vehicular traffic and east-west vehicular traffic on said highways is in excess of one hundred

thousand (100,000) vehicles a week.

5. That U.S. Highway 41, as it extends through the City of Evansville, Indiana, is a heavily commercial, as well as traffic artery through Vanderburgh County, Indiana in a northerly and southerly direction and is one of the main north-south highway connections between Chicago, Illinois and the State of Florida.

6. The Court finds that directly east of plaintiff's property, on the opposite corner of the street, there is located a gasoline service station. That said service station was erected under a zoning classification which amended the master plan and zoning ordinance for the City of Evansville. That said ordinance was passed after plaintiff had acquired his aforementioned and described property, and some time in 1958.

7. The Court finds that plaintiff sought a zoning classification to permit the erection of a gasoline service station upon his said property. That said request for re-zoning was denied by the Common Council for the City of Evansville, Indiana.

8. The Court finds that Highway 41 as it extends through the City of Evansville, Indiana, is principally commercial, and that there are commercial establishments on said U.S. Highway 41, including gasoline service stations two blocks north of said intersection of Lincoln and Kentucky Avenues; that three blocks south of said intersection there are also commercial establishments; that two blocks east of said intersection there are commercial establishments, including gasoline stations, and two blocks west of said intersection there are commercial establishments.

9. The Court finds that plaintiff's property is in an area of older homes that have depreciated. That said neighborhood has been considered as a blighted neighborhood for loan purposes by banks and lending institutions and for Federal Housing Authority lending purposes.

10. The Court further finds that plaintiff sought a variance for the purpose of erecting a gasoline service station upon his said property as alleged in rhetorical paragraph 15 of his complaint.

11. The Court finds that the defendant Board of Zoning Appeals and the members thereof denied said petition for variance

for the sole reason that it felt it was prevented from so granting said variance because of Ordinance No. 2360 as amended of the City of Evansville, Indiana as alleged in rhetorical paragraph 16 of plaintiff's complaint, and exhibits therein referred to.

12. The Court further finds that the reasonable value of plaintiff's said property is Twenty-Five Thousand Dollars (\$25,000.00) under circumstances permitting the erection of a gasoline service station thereon.

13. The Court further finds that the reasonable value of plaintiff's said property under its present zoning classification is Fifteen Hundred Dollars (\$1500.00) to Twenty-Five Hundred Dollars (\$2500.00).

14. The Court further finds that the erection of a gasoline station upon plaintiff's said property would not depreciate the neighborhood real estate value.

15. The Court further finds that gasoline service filling stations are not a greater fire hazard than other commercial establishments or enterprises.

16. The Court further finds that there are no smells or noises connected with the operation of a gasoline service filling station which would constitute a nuisance per se.

17. The Court further finds that there is no vibration resulting from the operation of a gasoline service filling station.

18. The Court further finds that the direction lighting on gasoline service filling stations does not interfere with pedestrian traffic and vehicular traffic, and in fact is an aid to pedestrian and vehicular traffic.

19. The Court further finds that gasoline service filling stations do not generate traffic such as other commercial establishments do.

20. The Court further finds that the amount of dust created by a gasoline service filling station is no greater than that created by the normal flow of traffic on the highways adjacent to such gasoline service filling station.

21. The Court further finds that less than one percent (1%) of all accidents in the City of Evansville, Indiana have been

caused by vehicular traffic entering and leaving all commercial establishments, including gasoline stations.

22. The Court further finds that fire insurance rates for property adjoining gasoline service filling stations are not adversely affected.

23. The Court further finds that gasoline service filling stations have a low fire insurance rate as compared to other commercial establishments.

24. The Court finds that the erection of a gasoline service station within less than three hundred fifty (350) yards of another gasoline service station has no effect on insurance rates.

25. The Court further finds that the experience of the Evansville Fire Department shows that in the last three years there was a fire loss of approximately Two Thousand Dollars (\$2,000.00) for gasoline stations, as against a total fire loss of over Two Million Dollars (\$2,000,000.00) for all other fire losses in the City of Evansville, Indiana.

26. That gasoline service stations are erected pursuant to the rules and regulations of the Indiana State Fire Marshal and subject to the rules and regulations of the city ordinance of the City of Evansville, Indiana, regulating gasoline stations. That they must meet the standards and specifications set up by the electric, heat and plumbing inspector of the City of Evansville, Indiana, and of the State Fire Marshal.

27. The Court finds that gasoline stations being erected in the City of Evansville at this time are of fire-proof construction.

28. The Court further finds that Ordinance No. 2360 as amended of the City of Evansville, Indiana does not prohibit the erection and installation of facilities which would store or sell gasoline less than three hundred fifty (350) yards from existing gasoline stations, but said ordinance applies only as to gasoline service and filling stations.

29. The Court further finds that the erection and operation of a gasoline service filling station is not a nuisance per se.

s/ William E. Steckler
District Judge

Dec. 21, 1959

CONCLUSIONS OF LAW

1. That Ordinance No. 2360 as amended is unconstitutional and void under the Fourteenth Amendment to the Constitution of the United States in that said Ordinance discriminates against plaintiff and in favor of existing gasoline stations erected prior to the enactment of said ordinance.

2. That said Ordinance No. 2360 as amended is unconstitutional and void under the Fourteenth Amendment to the Constitution of the United States in that said ordinance denies the equal protection of the laws to plaintiff.

3. That said Ordinance No. 2360 as amended is unconstitutional and void under the Fourteenth Amendment to the Constitution of the United States in that it creates a monopoly in those owners of gasoline stations erected prior to the enactment of said ordinance.

4. That said Ordinance No. 2360 as amended is unconstitutional and void under the Fourteenth Amendment to the Constitution of the United States in that said ordinance does not apply to all persons of the same class.

5. That the erection, operation and maintenance of a gasoline service filling station is not a nuisance per se.

6. That Ordinance No. 2360 as amended is unconstitutional and void under the Fourteenth Amendment to the Constitution of the United States in that it bears no reasonable relationship to the exercise of the police powers of the City of Evansville, Indiana.

7. That Ordinance No. 2360 as amended is unconstitutional and void under the Fourteenth Amendment to the Constitution of the United States in that it bears no reasonable relationship to the regulation of the public health, welfare and safety of the citizens of the City of Evansville, Indiana.

s/ William E. Stockler
District Judge

Dec. 21, 1959

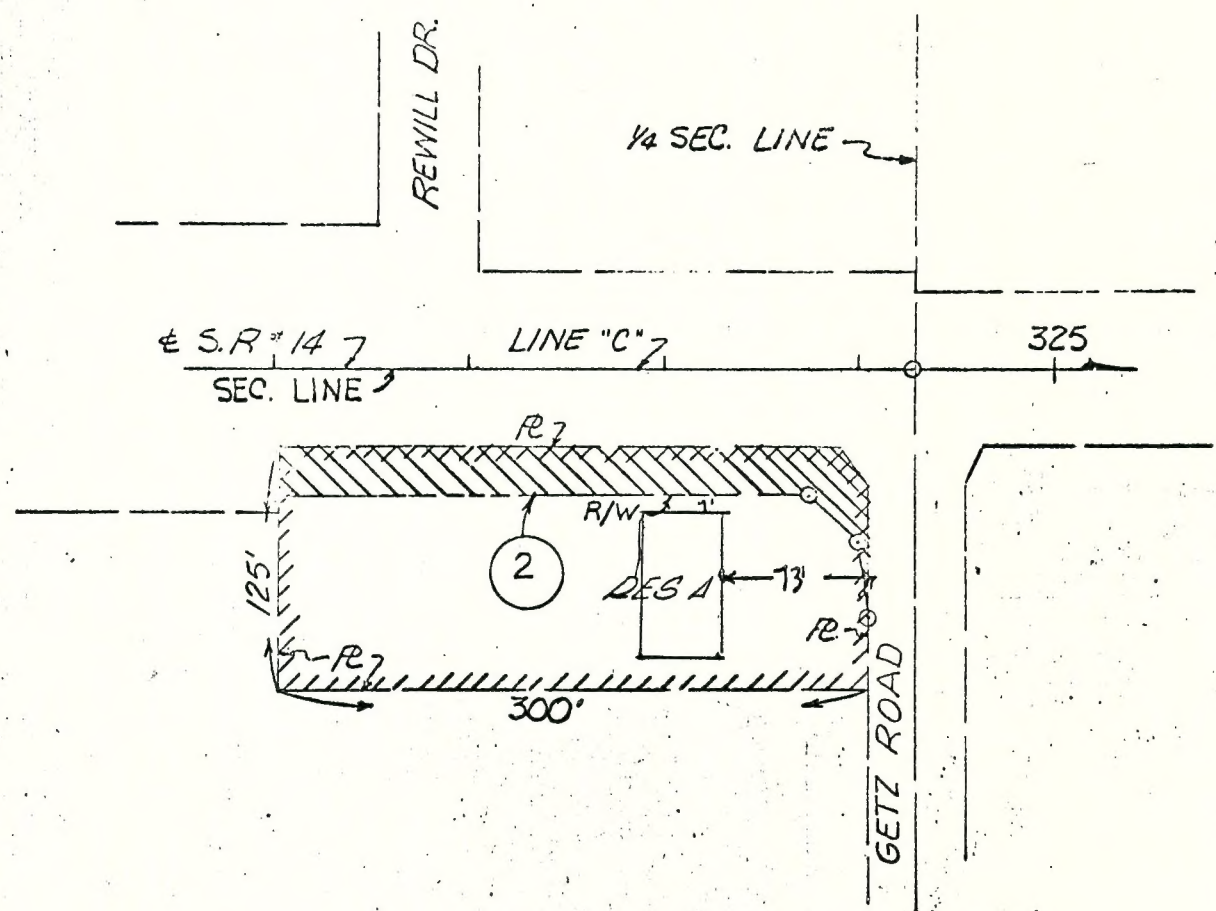
PARCEL NO. 2
PROJECT NO. S-387(4)
ROAD NO. S.R# 14
COUNTY : ALLEN
SECTION : 7
TOWNSHIP: 30 N
RANGE : 12 E

OWNER. OSCAR F & MILDRED T. SCHELPER DRAWN BY: L. KING 8/31/64
DEED RECORD 496 PAGE 278 DATED 5/25/55 CHECKED BY: *WESMITH* 7/23/64



HATCHED AREA IS THE
APPROXIMATE TAKING

SCALE: 1"=100'



Arthur T. Wilcox
NOV 10 1964

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REPORT OF MAYOR, FIRE CHIEF AND CITY CLERK ON
ELECTION OF TRUSTEE FOR FIREMEN'S PENSION FUND

To The Honorable Common Council:

The undersigned met and canvassed the ballots of an election held on the 12th day of February, 1968 by members of the retired list of the Fort Wayne Fire Department for the election of one Trustee for the Firemen's Pension Fund to serve for a period of two (2) years.

Howard Blanton received 33 votes, the highest number of votes, from a total of 60 legal ballots cast for the three candidates for office.

Harold S. Zeis
Mayor

Fuad G. BonaHoom
City Clerk

Edward C. Lorain
Fire Chief

MADE A MATTER OF RECORD
DATE 2-27-68 FUAD G. BONAHOOM, CITY CLERK

Council Copy

The Council then adjourned.

CERTIFICATE

I hereby certify that I am the duly elected, acting and incumbent City Clerk of the City of Fort Wayne, Indiana and as such the custodian of the records of the Common Council of said city and that the above and foregoing is the true, full and complete record of the proceedings of the Common Council of the City of Fort Wayne, Indiana for its Regular Session, held on Tuesday, the 27th day of February, 1968; that the numbered ordinances shown therein were duly adopted by said Common Council on said date and were presented by me to the Mayor of the City of Fort Wayne and were signed and approved or disapproved by said Mayor as and on the dates shown as to each such ordinance ^{Res.} respectively; and that all such records, proceedings ~~and~~ ^{Res.} ordinances remain on file and record in my office.

WITNESS my hand and the official seal of the City of Fort Wayne, Indiana, this 27 day of February, 1968.

~~Walter C. Meyers~~
City Clerk

SEAL